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21 UNITED STATES DISTRICT COURT
22
23 NORTHERN DISTRICT OF CALIFORNIA
24
25 SAN FRANCISCO DIVISION

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27 GOOGLE LLC,
28 vs.
29 Plaintiff,
30 SONOS, INC.,
31 Defendant.

32 Case No. 3:20-cv-06754-WHA
33 Related to Case No. 3:21-cv-07559-WHA

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35 **GOOGLE LLC'S RESPONSE TO THE
36 COURT'S REQUEST FOR
37 INFORMATION (DKT. 549)**

38 The Hon. William H. Alsup
39 Date: March 30, 2023
40 Time: 8:00 a.m.
41 Location: Courtroom 12, 19th Floor

1 Google LLC (“Google”) files this brief in response to the Court’s Request for Information
 2 (Dkt. 549). A ruling that the asserted claims of U.S. Patent No. 10,779,033 (“’033 patent”) are
 3 invalid would not moot Google’s breach of contract and conversion claims because such claims do
 4 not hinge on the validity of the ’033 patent. An invalidity finding would not change the fact that
 5 Sonos has improperly claimed a right in development work arising from the parties’
 6 collaboration. *See generally* Dkt. 83-2 (Google’s Reply in Support of its Motion for Leave to File
 7 its Second Amended Complaint) at 4.

8 With respect to breach of contract, Sonos violated the Content Integration Agreement (Dkt.
 9 479-4, “CIA”) by [REDACTED] in at least the following ways. First,
 10 Sonos breached the CIA by claiming Google’s development work during prosecution of the ’033
 11 patent, including in the November 1, 2019 amendment that introduced limitations related to a
 12 “remote playback queue,” and then accusing Google of infringement of the patent based on Google’s
 13 use of the result of that development work—the cloud queue API. Dkt. 515-37 (Google’s
 14 Opposition to Sonos’s Motion for Summary Judgment Regarding Google’s Contract-Related
 15 Claims) at 10-11, 12-14. Second, Sonos breached the CIA by [REDACTED]
 16 [REDACTED], which is separate from the ’033 patent or its
 17 validity. *Id.* at 11-12. Third, Sonos breached the CIA by filing other patents purporting to cover
 18 Google’s development work on the cloud queue API after the parties’ collaboration. *See id.* at 9-
 19 10; *see also* Dkt. 515-32 (Opening Expert Report of Samrat Bhattacharjee Regarding Invalidity of
 20 U.S. Patent Nos. 10,779,033 and 9,967,615 and Other Issues) ¶¶ 811-12. None of these breaches
 21 would be mooted by a finding of invalidity of the ’033 patent.

22 With respect to conversion, Google’s claim would similarly not be mooted by a ruling that
 23 the ’033 patent is invalid. Specifically, Google claims that Sonos wrongfully exercised dominion
 24 over the cloud queue technology by both (1) filing patents that purport to cover the idea, including
 25 patents other than the ’033 patent, and (2) [REDACTED]
 26 [REDACTED]. Opposition at 25. Neither theory is solely contingent upon the validity of the ’033
 27 patent.

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Although Google's affirmative claims would not be moot, if the '033 patent is invalidated and the Court is of the view that the claims should be dropped in order to streamline the issues for summary judgment and trial, Google will withdraw those claims without prejudice.

DATED: March 29, 2023

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that,
3 on March 29, 2023, all counsel of record who have appeared in this case are being served with a
4 copy of the foregoing via the Court's CM/ECF system and email.

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